

REMARKS

Claims 1-8 and 26-36 are pending in the application.

Applicants have canceled claims 9-25, and have added new claims 26-36. These changes do not introduce any new matter.

In light of Applicants' election of claims 1-8 for prosecution on the merits in the subject application, Applicants have canceled nonelected claims 9-25. Applicants reserve the right to pursue nonelected claims 9-25 in a timely filed divisional application.

Applicants respectfully request reconsideration of the rejection of claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by *Shiota et al.* ("*Shiota*") (U.S. Patent No. 6,011,547). As will be explained in more detail below, the *Shiota* reference does not disclose each and every feature of independent claims 1, 7, and 8.

The claimed subject matter involves a method, apparatus, and computer program product that prepares in advance, for image processing, a scene-dependent image processing condition suitable for a selected shooting scene, and carries out image processing by:

a) specifying the scene-dependent image processing condition depending upon scene-dependent image processing condition specification information, so as to carry out image processing; and

b) specifying the selected shooting scene based on the shooting information, and using the suitable scene-dependent image processing condition, so as to carry out image processing, in the case of failed retrieval of the scene-dependent image processing condition specification information.

The *Shiota* reference suggests carrying out image processing based on shooting scene information included in the "recording information" (see column 4, lines 31-52); however, the *Shiota* reference does not disclose (or suggest) either 1) specifying the selected shooting scene based on the shooting information in the case of failed retrieval of the scene-dependent

image processing condition specification information, or 2) preparing in advance a scene-dependent image processing condition suitable for the selected shooting scene.

Further, the *Shiota* reference does not disclose the concept of specifying the prepared scene-dependent image processing condition depending upon the scene-dependent image processing condition specification information. In this regard, it is evident from the description at column 5, lines 55-67, of the *Shiota* reference that the “recording information” is not used to specify an image processing condition for image processing. Instead, in the *Shiota* reference, image reproducing apparatus 3, which carries out image processing, adds the image processing condition to image data 8, and this image processing condition is plainly distinguishable from the claimed scene-dependent image processing condition specification information.

Thus, for at least the foregoing reasons, the *Shiota* reference does not disclose each and every feature of independent claims 1, 7, and 8.

Accordingly, independent claims 1, 7, and 8 are patentable under 35 U.S.C. § 102(b) over *Shiota*. Claims 2-6, each of which ultimately depends from claim 1, are likewise patentable under 35 U.S.C. § 102(b) over *Shiota* for at least the same reasons set forth above regarding claim 1.

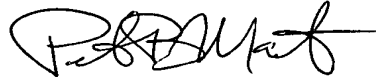
As noted above, Applicants have added new claims 26-36. These claims, all of which are dependent claims, define the scene-dependent image processing condition specification information as being related to the image data by an image data generating apparatus, e.g. a digital still camera.

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 1-8, and examination of new claims 26-36, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this

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application, the Examiner may reach the undersigned at **(408) 749-6902**. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP047).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP

A handwritten signature in black ink, appearing to read 'Peter B. Martine', with a stylized flourish at the end.

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